H.L. WEE

v.

THE LAW SOCIETY OF SINGAPORE

PRIVY COUNCIL
LORD DIPLOCK
LORD BRANDON OF OAKBROOK
JOHN MEGAW
[APPEAL NO. 44 OF 1981]
13 JULY 1982

LEGAL PROFESSION: *Professional discipline - Conduct - Grossly improper - Criminal breach of trust by legal assistant - Client's account - Delay in reporting to Law Society or police - Sections 84(1), (2), 94 (1), 98 Legal Profession Act.*

The appellant, an advocate and solicitor was charged before the disciplinary committee with grossly improper conduct in the discharge of his professional duty. The charge being based upon his failure to report earlier the criminal breaches of trust committed by one of his legal assistants, Santhiran. The appellant did not disclose the offence to the Law Society or the police until some 13 or 14 months later. But during the course of the period he endeavoured, with considerable but not complete success, to obtain restitution of the monies misappropriated from Santhiran.

The disciplinary committee found that the cause of sufficient gravity existed for disciplinary action against the appellant under s. 84 of the Act. This finding was referred by the Law Society to the High Court which suspended the appellant from practice for two years on 27 August 1981. The appellant appealed against this Order.

Held:

[1] The appellant was faced with concurrent findings of fact with which it is the well-established and invariable practice of this board not to interfere, particularly as the finding was dependent upon the credibility of the oral evidence of the appellant as a witness.

[2] On the contention that the two year's suspension from practice was too severe, their Lordship felt that the High Court, Singapore with its familiarity with the conditions of the local legal profession, was in a much better position than their Lordships to assess the appropriate penalty for grossly improper conduct.

[Appeal dismissed with costs.]

Legislation referred to:
Legal Profession Act 1976 [Sing], ss. 84, (1), (2), 94(1), 98

For the appellant - C. Ross Munro, QC, H. Page
For the respondent - J. Grimberg, George Lim

JUDGMENT

Lord Diplock:

This is an appeal against an order of the High Court in Singapore of 27 August 1981, under s. 84(1) of the Legal Profession Act, that the appellant, an advocate and solicitor of Singapore, be suspended from practice for two years.

The appellant was in practice alone under the firm name of Braddel Brothers. He employed a number of solicitors as assistants in that practice. The senior of these assistants was one Santhiran who, as the appellant had discovered by March 1976, had misappropriated a large amount of money from clients' accounts. The appellant did not disclose the fact of Santhiran's defalcations to the Law Society or the police until some 13 or 14 months later, during the course of which he endeavoured, with considerable but not complete success, to obtain restitution from Santhiran of the monies belonging to clients and to the firm itself that had been misappropriated.

The appellant was charged before a disciplinary committee with grossly improper conduct in the discharge of his professional duty within the meaning of s. 84(2) of the Legal Profession Act, the charge being based upon his failure to report earlier the criminal breaches of trust committed by Santhiran. His defence in substance was that his failure to report was a mere error of judgment he was actuated by a desire to obtain Santhiran's co-operation so that it would be possible to allocate as between individual clients the total amount of money which which Santhiran admitted he had misappropriated and of most of which he had by March 1976 already made restitution. It was submitted to the disciplinary committee that, in determining whether what the appellant did was grossly improper conduct in the course of his professional duty, they were not entitled either to consider whether the appellant's motives in availing disclosure of Santhiran's criminal breaches of trust were as exclusively altruistic as he claimed; nor, it was also submitted, were they entitled to take into account the fact that he retained Santhiran in his employment until December 1976, although unpaid, allowed him to conduct business including Court business on behalf of clients, and did nothing until April 1977 to prevent him thereafter from carrying on practice on his own account as a solicitor.

The disciplinary committee rejected these submissions which, despite counsel's sustained and ingenious reasoning to the contrary, in their Lordship's view remain quite unarguable. The appellant gave evidence as to his motives; he was cross-examined and was disbelieved by the committee. They found that the dominant motive for his non-disclosure was his own financial protection, to ensure, if possible, that he himself was not out of pocket but got back full restitution for all that the firm had lost or might be liable for as a result of Santhiran's dishonesty. This was a finding of fact. The committee's reasons for reaching it are set out in meticulous and convincing detail in their report. In the result they found that cause of sufficient gravity existed for disciplinary action under s. 84 of the Act.

This finding was brought before the High Court by the Law Society under ss. 94(1) and 98 of the Act. The appellant's submissions, which their Lordships have already stated they regard as quite unarguable, were repeated to the High Court and rejected by that Court.

The Court was also pressed with an argument on behalf of the appellant that the evidence before the disciplinary committee did not justify the conclusion they had reached as to the appellant's motives for his long delay in disclosing Santhiran's defalcations. The High Court, in a careful judgment, considered and rejected this argument: so on this matter the appellant is faced with concurrent findings of fact with which it is the well-established and invariable practice of this board not to interfere, particularly as the finding was dependent upon the credibility of the oral evidence of the appellant as a witness.

Finally, it was submitted that the penalty of two years' suspension from practice imposed by the High Court on the appellant was too severe. The High Court with its familiarity with the conditions which obtain in the legal profession in Singapore, is in a much better position

than their Lordships to assess the appropriate penalty for grossly improper conduct. Their Lordships would hesitate long before interfering with the High Court's assessment. They see no sufficiently strong ground to entitle them to do so in this case.

This appeal must be dismissed with costs.

Also found at [1982] CLJ 530